

Message Text

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ORIGIN STR-05

INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 FEA-01 AGRE-00
CEA-01 CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01
INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01
AID-05 SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02
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USMTN

E.O. 11652:

TAGS: GATT, MTN

SUBJECT: FRAMEWORK GROUP--ENABLING CLAUSE ON S&D

REFS: (A) GENEVA 16103, (B) GENEVA 10388

1. AGREE WITH GENERAL APPROACH TO FRAMEWORK GROUP
ISSUES SUGGESTED BY MTN DEL IN REF B. WILL AWAIT
DRAFT PAPER REFERRED TO IN PARA 5 OF REF B WITH A VIEW
TO INCORPORATING IT IN TPSC PAPER ON STRATEGY ON
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FRAMEWORK GROUP WHICH IS CURRENTLY IN PREPARATION.

2. WITH SPECIFIC REGARD TO ENABLING CLAUSE PROBLEM,
AGREE THAT DEL SHOULD PROBE EC FURTHER ON THIS ISSUE
ASAP. WHILE THE EC SUGGESTED AT RECENT BILATERALS
THAT OUR DIFFERENCES WERE JUST ON TACTICS, THERE MAY
VERY WELL BE DIFFERENCES OVER SUBSTANCE. DEL SHOULD BE

AWARE THAT VARIOUS WASHINGTON AGENCIES ARE OPPOSED TO THE CONCEPT OF AN ENABLING CLAUSE AS WELL AS EC DRAFT PROVISIONS. WE ARE NOT REPEAT NOT IN A POSITION TO SUGGEST TO COMMUNITY THAT EVEN WITH APPROPRIATE CHANGES WE CAN ACCEPT AN ENABLING CLAUSE. IN ADDITION, AS POINTED OUT IN REF B, WE WANT PARALLEL PROGRESS ON ALL FG ISSUES.

3. PRESENTATION SHOULD UNDERSCORE THESE GENERAL RESERVATIONS AS WELL AS FOLLOWING CONCERNS ADVANCED IN RECENT US/EC CONSULTATIONS--I.E.:

A. WE CANNOT AGREE TO ANY INITIATIVE WHICH WOULD PERMIT S&D MEASURES INCONSISTENT WITH TRADE LIBERALIZATION AND WHICH ALLOW SPECIAL REGIONAL PREFERENCES; AND

B. DCS SHOULD TAKE NO INITIATIVES IN THIS AREA UNTIL IT IS CLEAR THAT LDCS ARE PREPARED TO MAKE MEANINGFUL CONTRIBUTIONS IN THE MTN AND TO ACCEPT GREATER DISCIPLINES OVER THEIR OWN REGIMES, INCLUDING THE PRINCIPLE OF GRADUATION.

4. WE BELIEVE THAT MTN DEL MODIFICATIONS TO COMMUNITY DRAFT ALLEVIATES SOME AGENCY CONCERNS. HOWEVER, FULL WASHINGTON REVIEW NEEDED. INITIAL REVIEW REVEALS FOLLOWING QUESTIONS/PROBLEMS WITH MTN DEL REDRAFT. LIMITED OFFICIAL USE

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A. PARA 1 UNCLEAR INSOFAR AS GENERALIZED TARIFF PREFERENCES WOULD NOT BE NEGOTIATED MULTILATERALLY UNDER GATT AUSPICES.

B. PARAS 3 AND 4 IN THEIR PRESENT FORM RAISE SOME QUESTIONS. AS NOW DRAFTED THEY COULD ALLOW LDC CHALLENGE OF THE ADEQUACY OF THE DIFFERENTIAL TREATMENT BEING TAKEN EITHER IN A SPECIFIC CASE OR WHAT DCS ARE DOING IN THE AGGREGATE. WE ASSUME INTENT IS TO PROVIDE FOR REVIEW AND CONSULTATIONS IN ORDER TO PROTECT THIRD-PARTY INTERESTS. BINDING FORCE GIVEN TO THE RECOMMENDATIONS OF THE CPS (MAJORITY OF WHOM ARE LDCS) RAISES SERIOUS PROBLEMS. ALSO QUESTION HAS BEEN RAISED WHETHER SEPARATE REVIEW PROCEDURES IN ENABLING CLAUSES NECESSARY SINCE PROCEDURES MAY BE DEVELOPED IN SPECIFIC MTN AGREEMENTS.

C. THERE IS NO EXPLICIT REFERENCE THAT DIFFERENTIAL TREATMENT RELATES TO LDC COMMITMENT TO THEIR GATT OBLIGATIONS, WHICH WE BELIEVE IMPORTANT AND ANY REFERENCE TO THE GRADUATION CONCEPT AS IN PARA 6 SHOULD

INCLUDE BOTH PHASE-OUT OF BENEFITS AND PHASE-IN OF FULLER OBLIGATIONS.

D. THERE IS A QUESTION WHETHER SPECIFIC MECHANISM IN PARA 6 IS FEASIBLE. CLEARLY A DETAILED REVIEW OF ALL PROVISION FOR S&D WILL PROVE IMPOSSIBLE. ALTERNATIVE APPROACH WOULD BE FOR REVIEW OF S&D UNDER MECHANISMS DEVELOPED IN EACH MTN AGREEMENT.

5. THESE QUESTIONS SUPPORT ARGUMENTS FOR DEFERRAL OF CONSIDERATION OF NEED FOR AND POSSIBLE SHAPE OF AN ENABLING CLAUSE UNTIL AFTER WE SEE WHAT SPECIFIC S&D PROVISIONS CAN BE AGREED IN NTM AREAS.

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6. HOWEVER, WE RECOGNIZE VALUE OF DISCUSSING WITH THE EC THE SPECIFIC SHORTCOMINGS OF THEIR DRAFT AS A BASIS FOR PRESSING COMMISSION TO SLOW DOWN OR MAKE CHANGES TO REDUCE PROBLEMS POSED. ACCORDINGLY, DEL MAY INFORMALLY INDICATE TO EC MAJOR SUBSTANTIVE CONCERNS AS REFLECTED IN DEL REDRAFT OF EC DRAFT AND INITIAL WASHINGTON COMMENTS OUTLINED IN PARAS 2, 3 AND 4 ABOVE, MAKING IT CLEAR THAT THESE ARE NOT, REPEAT NOT, OFFICIAL AND FINAL WASHINGTON VIEWS. WE ARE INTERESTED IN GETTING EC REACTION TO EACH OF THE MAJOR CONCERNS REFLECTED IN MODIFICATIONS TO EC DRAFT. HOWEVER, IT IS IMPORTANT THAT WE NOT GET INTO A SITUATION WHERE OUR FLEXIBILITY IS LIMITED BY EC ACCEPTANCE OF SPECIFIC US COMMENTS. VANCE

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Sent Date: 19-Nov-1977 12:00:00 am
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Disposition Case Number: n/a
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Disposition Date: 22 May 2009
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